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DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM-2012-0033]

Atlantic Wind One (ATLW1) Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore Virginia—Proposed Sale Notice

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior

ACTION: Proposed Sale Notice for Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore Virginia

SUMMARY: This document is the Proposed Sale Notice (PSN) for the sale of a commercial renewable energy lease on the Outer Continental Shelf (OCS) offshore Virginia, pursuant to BOEM's regulations at 30 CFR 585.216. BOEM will auction the area described in the Call for Information and Nominations (77 FR 5545) as a single lease using an ascending clock auction. In this PSN, you will find information pertaining to the area available for leasing, proposed lease provisions and conditions, auction details, the lease form, criteria for evaluating competing bids, award procedures, appeal procedures, and lease execution. BOEM invites comments during a 60-day comment period following this notice.

DATES: Comments should be submitted electronically or postmarked no later than [INSERT DATE 60 DAYS FROM PUBLICATION IN THE *FEDERAL REGISTER*].

All comments received or postmarked during the comment period will be made available to the public and considered prior to publication of the Final Sale Notice (FSN).

The end of the comment period is also the deadline for the submission of qualification materials. All bidders interested in participating in the lease sale must have submitted all such qualification materials by the end of the 60-day comment period for this notice. All qualification materials must be postmarked no later than [INSERT DATE 60 DAYS FROM PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Potential auction participants, Federal, state, and local government agencies, tribal governments, and other interested parties are requested to submit their written comments on the PSN in one of the following ways:

1. *Electronically:* <http://www.regulations.gov>. In the entry titled “Enter Keyword or ID,” enter BOEM-2012-0033 then click “search.” Follow the instructions to submit public comments.
2. *Written Comments:* In written form, delivered by hand or by mail, enclosed in an envelope labeled “Comments on Virginia PSN” to: Office of Renewable Energy Programs, Bureau of Ocean Energy Management, 381 Elden Street, HM 1328, Herndon, Virginia 20170.
3. *Qualifications Materials:* Those submitting qualifications packages should contact Erin Trager, BOEM Office of Renewable Energy Programs, 381 Elden Street, HM 1328, Herndon, Virginia 20170, (703) 787-1320, or erin.trager@boem.gov.

If you wish to protect the confidentiality of your nominations or comments, clearly mark the relevant sections and request that BOEM treat them as confidential. Please label privileged or confidential information with the caption, “Contains Confidential

Information” and consider submitting such information as a separate attachment.

Treatment of confidential information is addressed in the section of this PSN entitled “Protection of Privileged or Confidential Information.” Information that is not labeled as privileged or confidential will be regarded by BOEM as suitable for public release.

FOR FURTHER INFORMATION CONTACT: Erin Trager, BOEM Office of Renewable Energy Programs, 381 Elden Street, HM 1328, Herndon, Virginia 20170, (703) 787-1320 or erin.trager@boem.gov.

AUTHORITY: This PSN is published pursuant to subsection 8(p) of the OCS Lands Act (43 U.S.C. 1337(p)) (“the Act”), as amended by section 388 of the Energy Policy Act of 2005 (EPA), and the implementing regulations at 30 CFR Part 585, including 30 CFR 585.211 & 585.216.

BACKGROUND: The proposed lease area is the same as the area described in the Virginia Call for Information and Nominations (Call), which was published in the *Federal Register* on February 3, 2012. Additional information about the proposed lease area is provided in the Call (77 FR 5545).

On February 3, 2012, BOEM published the Notice of Availability (NOA) (77 FR 5560) for the final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for commercial wind lease issuance and site assessment activities on the Atlantic OCS offshore New Jersey, Delaware, Maryland, and Virginia. Consultations ran concurrently with the preparation of the EA and included consultation under the Endangered Species Act (ESA), Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), section 106 of the National Historic Preservation Act

(NHPA), and the Coastal Zone Management Act (CZMA). The *Commercial Wind Lease Issuance and Site Characterization Activities on the Atlantic Outer Continental Shelf Offshore New Jersey, Delaware, Maryland, and Virginia Environmental Assessment* (Regional EA) can be found at:

<http://www.boem.gov/Renewable-Energy-Program/Smart-from-the-Start/Index.aspx>.

The proposed lease area identified in this PSN matches the Virginia Wind Energy Area (WEA) described in the preferred alternative in the Regional EA. Additional environmental documentation will be prepared upon receipt of plans, such as a Site Assessment Plan (SAP) or Construction and Operations Plan (COP).

Potential bidders should be aware of two unsolicited nominations under consideration by BOEM, situated within or near the Virginia WEA. Additional information is provided below.

Atlantic Grid Holdings LLC (ROW) Grant Request: On March 31, 2011, Atlantic Grid Holdings LLC submitted an unsolicited application for a ROW grant. Following publication of a notice to determine competitive interest in the grant area and a 60-day public comment period, BOEM published its determination of no competitive interest on May 15, 2012 (77 FR 28620). The nomination and associated notices can be found at: <http://www.boem.gov/Renewable-Energy-Program/State-Activities/Regional-Proposals.aspx>

Virginia Department of Mines, Minerals, and Energy (DMME) Research Lease Request: On June 1, 2012, the Commonwealth of Virginia (DMME) submitted an unsolicited nomination for a research lease under 30 CFR 585.238 for the siting of two

meteorological ocean and environmental monitoring platforms. The nomination can be found at: <http://www.boem.gov/Renewable-Energy-Program/State-Activities/Virginia.aspx>

FINANCIAL TERMS AND CONDITIONS: This section provides an overview of the basic annual payments required of the Lessee that will be fully described in the lease.

Rent: The first year's rent payment for the entire leased area is due within 45 calendar days of the date the winning bidder receives the lease for execution. Thereafter, annual rent payments are due on the anniversary of the lease Effective Date until commercial operations on the lease commence, i.e., when the generation of electricity begins. The annual rental rate will be \$3.00 per acre applicable to the entire leased area. For example, for a lease the size of 112,799 acres, the amount of rent payment will be \$338,397 per year. The Lessee also must pay rent for any project easement associated with the lease commencing on the date that BOEM approves the COP (or modification) describing the project easement. Annual rent for a project easement, 200-feet wide and centered on the transmission cable, is \$70.00 per statute mile. For any additional acreage required, the Lessee must also pay the greater of \$5.00 per acre per year or \$450.00 per year.

Operating Fee: The initial annual operating fee is prorated and due within 45 calendar days after the commencement of commercial operations on the lease, and subsequent payments are due on or before each Lease Anniversary annually thereafter. The annual operating fee payment is calculated by multiplying an operating fee rate by the imputed wholesale market value of the projected electric power production. For the purposes of this calculation, the imputed market value is the product of the project's annual

nameplate capacity, the total number of hours in the year (8,760), an annual capacity factor, and an historical, annual average regional wholesale power price index.

Operating Fee Rate: The operating fee rate is 0.02 through the 8th year of commercial operations on the lease. Starting in the 9th year of commercial operations, the operating fee rate is 0.04 through the remaining term of the lease.

Nameplate Capacity: The nameplate capacity at the start of each year of commercial operations on the lease as specified in the COP will be used to accommodate installation schedules or repowering.

Capacity Factor: The capacity factor for the first eight full years of commercial operations on the lease is set to 0.4 to allow for three years of installation and testing followed by five years at full availability. At the end of the 8th full year, the capacity factor will be adjusted to reflect the performance over the previous five years based upon the actual metered electricity generation at the delivery point to the electrical grid. Similar adjustments to the capacity factor will be made once every five years thereafter. The maximum change in the capacity factor from one period to the next will be limited to plus or minus 10 percent of the previous period's value.

Wholesale Power Price Index: The price is determined at the time each annual operating fee payment is due, based on the weighted average of the inflation-adjusted peak and off-peak spot price indices for the Northeast – PJM West power market for the most recent year of data available as reported by the Federal Energy Regulatory Commission (FERC) as part of its annual State of the Markets Report with specific reference to the summary entitled “Electric Market Overview: Regional Spot Prices.”

Financial Assurance: BOEM will base the amounts of all SAP, COP, and decommissioning financial assurance requirements on estimates of the cost to meet all accrued lease obligations. The amount of supplemental and decommissioning financial assurance requirements is determined on a case-by-case basis. The amount of financial assurance required to meet all lease obligations includes:

- The projected amount of rent and other payments due to the Government over the next 12 months;
- Any past due rent and other payments;
- Other monetary obligations (e.g., fines, liens); and
- The estimated cost of facility decommissioning.

Prior to lease issuance the Lessee must provide: (1) an initial lease-specific bond or other approved means of meeting the Lessor's initial financial assurance requirements in the amount of \$100,000; and (2) a supplemental bond or other approved means of meeting the Lessor's supplemental financial assurance requirements in the amount of \$338,397 to guarantee lease obligations from rental payments due to the Government over the first 12 months of the lease. Additional financial assurances will be required to address decommissioning, operating fee, and other obligations as the lease progresses.

The financial terms can be found in Addendum "B" of the proposed lease, which BOEM has made available with this notice on its website at:

<http://boem.gov/Renewable-Energy-Program/State-Activities/Virginia.aspx>.

PLACE AND TIME: The auction will be held online. The time that the auction will be held will be published in the FSN. The date has not been finalized at this time, but will be no earlier than 30 days after publication of the FSN in the *Federal Register*.

PUBLIC SEMINAR: BOEM will host a public seminar to introduce potential bidders and other stakeholders to the auction format provided in the PSN, explain the auction rules, and demonstrate the auction process through meaningful examples. The time and place of the seminar will be announced by BOEM and published on the BOEM website. No registration or RSVP is required to attend.

MOCK AUCTION: BOEM will host a mock auction to educate bidders about the procedures to be employed, and answer questions. The mock auction will take place between the publication of the FSN in the *Federal Register* and the date of the auction. Following publication of the FSN in the *Federal Register*, details of the mock auction will be distributed to those eligible to participate in the auction. All bidders that intend to participate in the auction are strongly encouraged to participate in the mock auction.

BID DEPOSIT AND MINIMUM BID: A bid deposit is an advance cash deposit submitted to BOEM. No later than 14 calendar days following publication of the FSN, each bidder must have submitted a bid deposit (i.e., minimum bid) of at least \$5.00 per acre, or fraction thereof, offered for sale. Approximately 112,799 acres will be offered for sale in this auction. Therefore, the minimum bid deposit for any participant in this auction is \$563,995. Any bidder that fails to submit the bid deposit by the deadline described herein may be prevented by BOEM from participating in the auction. Bid deposits will be accepted online via *pay.gov*.

Following publication of the FSN, each bidder must fill out the Bidder's Financial Form included in the FSN. BOEM has made a copy of the proposed form available with this notice on its website at: <http://boem.gov/Renewable-Energy-Program/State-Activities/Virginia>. This form requests that bidders designate an email address, which bidders should use to create an account in *pay.gov*. After establishing the *pay.gov* account, bidders may use the Bid Deposit Form on the *pay.gov* website to leave a deposit.

Following the auction, bid deposits will be applied against any bonus bids or other obligations owed to BOEM. If the bid deposit exceeds the bidder's total financial obligation, the balance of the bid deposit will be refunded to the bidder.

AREA OFFERED FOR LEASING: The proposed lease area offshore Virginia contains 19 whole OCS blocks and 13 sub-blocks. The western edge of the proposed lease area is approximately 23.5 nautical miles (nmi) from the Virginia Beach coastline, and extends to an eastern edge that is approximately 36.5 nmi from the same location. The longest north/south portion is approximately 10.5 nmi in length and the longest east/west portion is approximately 13 nmi in length. The entire area is approximately 112,799 acres, or 45,648 hectares. A description of the lease area and lease activities can be found in Addendum "A" of the proposed lease, which BOEM has made available with this notice on its website at: <http://boem.gov/Renewable-Energy-Program/State-Activities/Virginia.aspx>.

Map of the Area Offered for Leasing: A map of the area and a table of the boundary coordinates in X, Y (eastings, northings) UTM Zone 18, NAD83 Datum and geographic

X, Y (longitude, latitude), NAD83 Datum can be found at the following URL:

<http://boem.gov/Renewable-Energy-Program/State-Activities/Virginia.aspx>.

A large scale map of this area showing boundaries of the area with numbered blocks is available from BOEM at the following address: Bureau of Ocean Energy Management, Office of Renewable Energy Programs, 381 Elden Street, HM 1328, Herndon, Virginia 20170, Phone: (703) 787-1300, Fax: (703) 787-1708.

AREA OFFERED AS A SINGLE LEASE: The area available for sale will be auctioned as a single lease. One lease will be issued pursuant to this lease sale.

BOEM has decided to auction the area as a single zone resulting in a single lease in order to take advantage of the simplicity of this type of sale, the importance of which was highlighted by comments received in response to the Auction Format Information Request (76 FR 76174). Feedback from a member of the BOEM Virginia Renewable Energy Task Force suggested that offering the area in two zones could attract lower electricity prices for offshore wind generation in the event two different developers won different zones. However, splitting the area into two zones would not have prevented a single developer from winning both zones. Other Task Force members have endorsed the proposed single zone approach to facilitate potential phased development. If additional relevant comments regarding the auction format are submitted to BOEM in response to this PSN, BOEM will consider them.

WITHDRAWAL OF BLOCKS: BOEM reserves the right to withdraw areas from this lease sale prior to the execution of the lease.

LEASE TERMS AND CONDITIONS: Proposed lease terms and conditions for an OCS commercial wind lease in the Virginia WEA have been included in Addendum “C” of the proposed lease. BOEM reserves the right to apply additional terms and conditions that are consistent with the terms of the lease to activities conducted on the lease incident to any future approval or approval with modifications of a SAP and/or COP. The proposed lease, including Addendum “C”, is available on BOEM’s website at: <http://boem.gov/Renewable-Energy-Program/State-Activities/Virginia.aspx>. The proposed lease consists of an instrument with 18 sections and the following five attachments:

Addendum “A” (Description of Leased Area and Lease Activities);

Addendum “B” (Lease Term and Financial Schedule);

Addendum “C” (Lease Specific Terms, Conditions, and Stipulations);

Addendum “D” (Project Easement);

Addendum “E” (Rent Schedule); and

Appendix A (High Resolution Geophysical Surveys and Analysis for the Identification or Reporting of Archaeological Resources).

Addenda “A”, “B”, and “C” provide detailed descriptions of lease terms and conditions.

Addenda “D” and “E” will be completed at the time of COP approval.

After considering comments on the PSN and these proposed provisions, BOEM will publish final lease terms and conditions in a FSN.

The lease form included as part of this proposed lease has been updated since its publication on February 3, 2012. A discussion of specific changes to the lease form is

available separately on BOEM's website at: http://www.boem.gov/Renewable-Energy-Program/Regulatory-Information/Index.aspx#Lease_Forms.

Plans: Pursuant to 30 CFR 585.601, the leaseholder must submit a SAP within six months of lease issuance. If the leaseholder intends to continue its commercial lease with an operations term, the leaseholder must submit a COP at least six months before the end of the site assessment term.

Pursuant to 30 CFR 585.629, a leaseholder may request in its COP to develop its commercial lease in phases. If a leaseholder requests, and BOEM approves, phased development, this approval will not affect the length of the preliminary, site assessment, or commercial terms offered under the lease. The COP must describe in sufficient detail the activities proposed for all phases of commercial development, including a schedule detailing the proposed timelines for phased development. Further, the COP must include the results of all site characterization surveys, as described in 30 CFR 585.626(a), necessary to support each phase of commercial development. The requirements of the SAP remain the same as they would under a non-phased development scenario, and must meet the requirements provided in the regulatory provisions in 30 CFR 585.605-613 for the full commercial lease area.

QUALIFICATIONS—WHO MAY BID: Entities wishing to participate in the lease sale must be legally, technically, and financially qualified under BOEM's regulations at 30 CFR 585.106-107. Any potential bidder that has not already submitted a complete qualification package must do so by the end of the comment period of this PSN. To be eligible to participate in the auction, each potential bidder must be legally, technically

and financially qualified by the time the FSN for this sale is published. Please note that technical and financial qualifications are project specific; it is not sufficient to have been technically and financially qualified to pursue a project offshore another state.

Guidance and examples of the appropriate documentation demonstrating your legal qualifications can be found in Chapter 2 and Appendix B of *Guidelines for the Minerals Management Service Renewable Energy Framework*, available on BOEM's website at <http://www.boem.gov/Renewable-Energy-Program/Regulatory-Information/Index.aspx>. Guidance regarding how you may demonstrate your technical and financial qualifications is provided in a document entitled, *Qualification Guidelines to Acquire and Hold Renewable Energy Leases and Grants and Alternate Use Grants on the U.S. Outer Continental Shelf*. (<http://boem.gov/Renewable-Energy-Program/Regulatory-Information/QualificationGuidelines-pdf.aspx>). It is strongly recommended that you refer to this guidance before submitting your materials as the guidance has been updated recently. Documentation you submit to demonstrate your legal, technical, and financial qualifications must be provided to BOEM in both paper and electronic formats. BOEM considers an Adobe PDF file stored on a compact disc (CD) to be an acceptable format for submitting an electronic copy. In your qualification materials, provide a general description of the project you would like to construct on the lease area sought in this sale, including estimates of the project area and total nameplate capacity of the proposed facilities.

Please note that it may take a number of weeks for you to establish your legal, technical, and financial qualifications. We advise potential bidders planning to participate in a sale to establish their qualifications promptly. It is not uncommon for

BOEM to request additional materials establishing qualifications following an initial review of the qualifications package. Any potential bidder whose qualification package is incomplete at the time the FSN for this sale is published in the *Federal Register*, will be found to have failed to establish its qualifications to participate in the sale, and, therefore, will be unable to participate in the sale.

AUCTION PROCEDURES: The sale is being conducted using an online bidding system and follows an “ascending clock” auction format. In this format, BOEM sets an initial asking or “clock” price for the single lease being offered, and increases that price incrementally in subsequent rounds until no more than a single active bidder remains in the auction. During each round, active bidders may either (1) submit an active bid indicating that they are interested in acquiring the lease at the stated auction price or (2) exit the auction.

A bidder remains active as long as it continues to meet BOEM’s asking price associated with ensuing rounds. If more than one active bid is received in a round, BOEM increases the asking price incrementally and conducts another auction round. Between rounds, active bidders are informed about the number of bids submitted in the previous round. Additional auction rounds occur as long as two or more bidders continue to submit active bids for the lease in each round. The auction concludes at the end of the round in which the number of active bids received falls to one or zero.

Bidders exiting the auction are allowed to submit an exit bid at an offer price greater than the clock price in the previous round and less than the incremented clock price in the current round. Once a bidder exits the auction, either by submitting an exit

bid or by failing to submit an active bid, it will no longer be allowed to submit bids in any subsequent round. If a bidder leaves the auction without submitting an exit bid, BOEM will treat the last round's clock price as the bidder's exit bid in the current round. Exit bids are not considered to be active bids for purpose of determining whether to conclude the auction.

The lease is awarded to the sole bidder submitting an active bid in the final round of the auction at the final round's stated auction price. If an active bid is not received in the final round, the lease is awarded to the bidder offering the highest exit bid price for the lease. If there is a tie at the highest exit bid price offered, the winning bidder is chosen by a random draw.

Specific details about certain administrative aspects of the auction sale process will be described in the FSN. These aspects include how the clock price will increase in various stages of the auction, the duration of each bidding round, the amount of time provided between rounds, the number of rounds expected per day, and the days on which the auction process will continue, if necessary, beyond the first day. Bidders may expect multiple rounds per day to occur during normal business hours. The amount of time allowed for bidders to enter bids and the time between rounds may be reduced as the auction progresses based on the patterns of bidding to increase the pace of the auction. Bidders will be notified of the round schedule at the start of each day of the auction.

ACCEPTANCE, REJECTION OR RETURN OF BIDS: BOEM reserves the right and authority to reject any and all bids. In any case, no bid will be accepted, and no lease will be awarded to any bidder, unless (1) the bidder has complied with all requirements of

the FSN and applicable regulations; (2) the bid is the highest valid bid; (3) and the amount of the bid has been determined to be adequate by the authorized officer. Any bid submitted that does not conform to the requirements of the FSN, the Act, and other applicable regulations may be returned to the bidder submitting that bid by the Program Manager of BOEM's Office of Renewable Energy Programs and not considered for acceptance. The winning bid will be evaluated for its conformance with the requirements and rules of the auction, including, but not limited to, applicable bidder qualifications, bid deposits, and the integrity of the bidding process.

PROCESS FOR ISSUING THE LEASE: If BOEM proceeds with lease issuance, it will issue three unsigned copies of the lease form to the winning bidder. Within 10 business days after receiving the lease copies, a winning bidder must:

1. Execute the lease on the bidder's behalf;
2. File financial assurance as required under 30 CFR 585.515-537; and
3. Pay the balance of the bonus bid (bid amount less the bid deposit).

If a winning bidder does not meet these three requirements within 10 business days of receiving the lease copies as described above, or if a winning bidder otherwise fails to comply with applicable regulations or the terms of the FSN, the winning bidder will forfeit its bid deposit. BOEM may extend this 10 business-day time period if it determines the delay was caused by events beyond the winning bidder's control.

BOEM will not execute a lease until the three requirements above have been satisfied, BOEM has accepted the winning bidder's financial assurance, and BOEM has processed the winning bidder's payment. Please note the required timelines for providing

financial assurance. The winning bidder may meet financial assurance requirements by posting a surety bond or by setting up an escrow account with a trust agreement giving BOEM the right to withdraw the money held in the account on demand by BOEM. BOEM may accept other forms of financial assurance on a case-by-case basis in accordance with its regulations. BOEM encourages winning bidders to discuss the financial assurance requirement with BOEM as soon as possible after the auction has concluded.

Within 45 calendar days of the date that the Lessee receives the lease copies, the Lessee must pay the first year's rent.

ANTI-COMPETITIVE BEHAVIOR: In addition to the auction rules described in this notice, bidding behavior is governed by Federal antitrust laws designed to prevent anticompetitive behavior in the marketplace. Compliance with the BOEM's auction procedures will not insulate a party from enforcement of the antitrust laws.

In accordance with the Act at 43 U.S.C. 1337(c), following the auction, and before the acceptance of bids and the issuance of leases, BOEM will "allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of the lease sale."

If a bidder is found to have engaged in anti-competitive behavior or otherwise violated BOEM's rules in connection with its participation in the competitive bidding process, BOEM may reject the high bid pursuant to its regulations at 30 CFR 585.222(a)(2).

Anti-competitive behavior determinations are fact specific. However, such behavior may manifest itself in several different ways, including, but not limited to:

- An agreement, either express or tacit, among bidders to not bid in an auction, or to bid a particular price;
- An agreement among bidders not to bid in a particular location;
- An agreement among bidders not to bid against each other; and
- Other agreements among bidders that have the effect of limiting the final auction price.
- If awarding a lease would otherwise create a situation inconsistent with the antitrust laws (*e.g.*, heavily concentrated market, etc.).

For more information on whether specific communications or agreements could constitute a violation of Federal antitrust law, please see

<http://www.justice.gov/atr/public/business-resources.html>, or consult counsel.

POST-AUCTION CERTIFICATION: In addition to the steps described in the section entitled, “Process for Issuing the Lease,” following the lease sale, each winning bidder will be required to certify the following in accordance with 18 U.S.C. § 1001 (Fraud and False Statements):

I certify that [name of qualified bidder] did not engage in anticompetitive bidding behavior in violation of Federal law, BOEM’s regulations, or auction procedures.

I certify that this bid is made in a good faith effort to win a lease to engage in the development of renewable energy resources.

NON-PROCUREMENT DEBARMENT AND SUSPENSION REGULATIONS:

Pursuant to regulations at 43 CFR Part 42, Subpart C, an OCS renewable energy Lessee must comply with the U.S. Department of the Interior's non-procurement debarment and suspension regulations at 2 CFR 180 and 1400 and agree to communicate the requirement to comply with these regulations to persons with whom the Lessee does business as it relates to this lease by including this term as a condition in their contracts and other transactions.

FINAL SALE NOTICE: BOEM will consider comments received or postmarked during the PSN comment period in preparing a FSN that will provide the final details concerning the offering and issuance of an OCS commercial wind energy lease in the Virginia WEA. The FSN will be published in the *Federal Register* at least 30 days before the lease sale is conducted and will provide the date and time of the auction.

FORCE MAJEURE: The Program Manager of BOEM's Office of Renewable Energy Programs has the discretion to change any date, time, and/or location specified in the FSN in case of a force majeure event that the Program Manager deems may interfere with a fair and proper lease sale process. Such events may include, but are not limited to, natural disasters (e.g., earthquakes, hurricanes, floods), wars, riots, acts of terrorism, fire, strikes, civil disorder or other events of a similar nature. In case of such events, bidders should call 703-787-1300 or access the BOEM website at:

<http://www.boem.gov/Renewable-Energy-Program/index.aspx>.

APPEALS: The appeals procedures are provided in BOEM's regulations at 30 CFR 585.225 and 585.118(c). Pursuant to 30 CFR 585.225,

- (a) If BOEM rejects your bid, BOEM will provide a written statement of the reasons and refund any money deposited with your bid, without interest.
- (b) You will then be able to ask the BOEM Director for reconsideration, in writing, within 15 business days of bid rejection, under 30 CFR 585.118(c)(1). We will send you a written response either affirming or reversing the rejection.

The procedures for appealing adverse final decisions with respect to lease sales are described in 30 CFR 585.118(c).

PROTECTION OF PRIVILEGED OR CONFIDENTIAL INFORMATION:

Freedom of Information Act: BOEM will protect privileged or confidential information that you submit as required by the Freedom of Information Act (FOIA). Exemption 4 of FOIA applies to trade secrets and commercial or financial information that you submit that is privileged or confidential. If you wish to protect the confidentiality of such information, clearly mark it and request that BOEM treat it as confidential. BOEM will not disclose such information, subject to the requirements of FOIA. Please label privileged or confidential information “Contains Confidential Information” and consider submitting such information as a separate attachment.

However, BOEM will not treat as confidential any aggregate summaries of such information or comments not containing such information. Additionally, BOEM may not treat as confidential the legal title of the commenting entity (e.g., the name of your

company). Information that is not labeled as privileged or confidential will be regarded by BOEM as suitable for public release.

Section 304 of the National Historic Preservation Act (16 U.S.C. § 470w-3(a)):

BOEM is required, after consultation with the Secretary, to withhold the location, character, or ownership of historic resources if it determines that disclosure may, among other things, cause a significant invasion of privacy, risk harm to the historic resources or impede the use of a traditional religious site by practitioners. Tribal entities and other interested parties should designate information that they wish to be held as confidential.

Tommy P. Beaudreau
Director, Bureau of Ocean Energy Management

November 27, 2012_____
Date

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